

Case Summary

Randall Walden appeals the denial of his “Petition to Rescind All Orders and Rulings” filed in relation to the 1996 dissolution of his marriage to Val Majors Castrodale. App. p. 13. We affirm and remand.

Issues

Walden raises two issues, which we consolidate and restate as whether the trial court properly denied his petition to rescind his dissolution. Castrodale cross-appeals requesting that Walden be ordered to pay her appellate attorney fees.

Facts

Walden and Castrodale were married in 1993, in the Virgin Islands. While they were married, they had a child. Their marriage was dissolved in 1996, in Indiana, and Walden was ordered to pay child support.

In September 2006, Walden sought documentation of the marriage from the Marion County Clerk’s Office. The Clerk could not produce any such documentation. On February 15, 2007, Walden, acting pro se, filed a “Petition to Rescind All Orders and Rulings,” relating to the division of marital property, custody, visitation, and child support. App. p. 13. In the petition Walden alleged, “As PER the Marion County Clerk Doris Anne Sadler, there was NEVER a legal, legitimate marriage between these parties, and any order or ruling connected to it would be null and void.” Id. at 14. That same day, Walden also filed a “Cease and Desist Order” requesting that all support obligations and arrearages be terminated. Id. at 17. On March 8, 2007, Walden moved for summary judgment.

On April 2, 2007, the trial court held a hearing on all pending motions. Castrodale appeared with counsel but Walden did not appear because he was incarcerated. After the hearing, the trial court denied these motions.¹ Walden now appeals.

Analysis

I. Dissolution

Walden, acting pro se, argues:

De Novo

1. The Marion County Superior #4 erred in adjudicating Waldens divorce because he and Appellee were never married. (App. pg. 7) The Marion Superior Court cannot mediate something that does not exist. [T.R. 60B 1, 3] [I.C. 31-11-4-1, 31-11-4-3]

II. The Marion Superior Court #4 had no judicial authority in this matter. Any ruling, Order, or stipulation connected to this Cause Number should be considered non-binding, and should be vacated, dissolved, or annulled, retroactive to the filing date of the Marion Superior #4 Cause Number.

Appellant's Br. pp 2-3.

Although we prefer to decide cases on their merits, we will deem alleged errors waived where an appellant's noncompliance with the rules of appellate procedure is so substantial that it impedes our appellate consideration of the errors. Shepherd v. Truex, 819 N.E.2d 457, 463 (Ind. Ct. App. 2004). The purpose of the appellate rules, especially Indiana Appellate Rule 46, governing briefs, is to aid and expedite review, as well as to

¹ The trial court did grant Walden's request to modify child support from \$52.00 to \$25.00 per week while he is incarcerated. Walden does not appeal this modification.

relieve the appellate court of the burden of searching the record and briefing the case. Id. The argument section of an appellant's brief "must contain the contentions of the appellant on the issues presented, supported by cogent reasoning. Each contention must be supported by citations to the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on. . . ." Id. (quoting Ind. App. R. 46(A)(8)).

It is well settled that we will not consider an appellant's argument on appeal when he or she has failed to present that argument supported by authority and references to the record as required by the rules. Id. "If we were to address such arguments, we would be forced to abdicate our role as an impartial tribunal and would instead become an advocate for one of the parties." Id. We cannot do this. Id.

Moreover, Walden cannot take refuge in the sanctuary of his amateur status. See id. A litigant who chooses to proceed pro se will be held to the same rules of procedure as trained legal counsel and must be prepared to accept the consequences of his or her action. Id. Walden's failure to provide us with argument and citations to authority supporting his claims results in the waiver of these arguments.

Waiver notwithstanding, Walden has not established that the trial court erred in denying his petition. The fact that the Marion County Clerk's Office had no knowledge of the issuance of a marriage license to Walden and Castrodale in Marion County from 1991 to 2006 does not establish that the couple was never legally married elsewhere. In her response, Castrodale included a copy of a "License and Certificate of Marriage" from the Virgin Islands of the United States. App. p. 27. The license indicates that on April 26, 1993, Walden and Castrodale were married at the Cruz Bay Baptist Church in the

Virgin Islands. Without more, Walden has not established that the trial court improperly denied his petition.

II. Appellate Attorney Fees

In her Appellee's Brief, Castrodale requests appellate attorney fees. Indiana Appellate Rule 66(E) allows us to assess attorney fees, in our discretion, where an appeal is "frivolous or in bad faith." "Our discretion to award attorney fees under the rule is limited to instances when the appeal is permeated with meritlessness, bad faith, frivolity, harassment, vexatiousness, or purpose of delay." Inland Steel Co. v. Pavlinac, 865 N.E.2d 690, 704 (Ind. Ct. App. 2007) (quotations and citations omitted).

Given this specific brief and the argument made by Walden, we conclude that Walden's appeal is frivolous. Although we can imagine a circumstance in which the validity of a marriage and a subsequent divorce could be challenged, Walden has made no such showing. This fact taken with Walden's complete disregard for Appellate Rule 46(A)(8) is a basis for awarding Castrodale appellate attorney fees.

Conclusion

Walden's argument regarding his petition to rescind is waived. Waiver notwithstanding, his petition is without merit. We grant Castrodale's request for attorney fees and remand for determination of such. We affirm and remand.

Affirmed and remanded.

KIRSCH, J., and ROBB, J., concur.